IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5916 OF 2005

Akbar Nabi Kagale. ... Applicant.
Versus.
The State of Maharashtra. ... Respondents.

Shri R.V.More for the Applicant.

Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 14th Sept., 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant and co-accused is under sections 376(g), 354, 323, 452, 504, 506 read with section 34 of the Indian Penal Code.

2. The learned Advocate for the Applicant submitted that in so far as the offence under section 376(g) of the I.P.C. is concerned allegation is against the co-accused Sunil. He submitted that a perusal of the F.I.R.lodged by the prosecutrix itself shows that her case is unreliable. He submitted that after completion of the investigation and filing of the charge sheet, the Applicant is entitled to be enlarged on bail. The learned A.P.P. pointed out the role played by the Applicant of threatening the husband of the prosecutrix and other persons accompanying the prosecutrix. He submitted that no case is made out for enlarging of the

Applicant on bail.

3. I have considered the submissions. On a plain reading of the version of the prosecutrix, the allegation of commission of offence under section 376 of the IPC is against the co-accused. It is stated that the Applicant and the other co-accused accompanied one Sunil against whom specific allegation of commission of offence under section 376 of the IPC is made. The allegation against the Applicant is that he was carrying an iron rod and he threatened the husband and daughter of the prosecutrix by showing the iron rod. There is nothing on record to show that any grievous injury is caused by the Applicant by using iron rod.

4. The investigation of the offence is complete and charge-sheet has been filed. Considering the allegations made by the prosecutrix against the Applicant and considering the fact that criminal antecedents of the Applicant are not on record, a case is made out for grant of bail.

5. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.18 of 2005 registered at Hupari Police Station, Dist.Kolhapur, subject to furnishing a personal bond of

Rs.10,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that the Applicant will report to the Investigating Officer once in a week till the conclusion of trial.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.